

# INTERNATIONAL SEARCH REPORT

International Application No  
NL2004/000471

A. CLASSIFICATION OF SUBJECT MATTER  
IPC 7 C12Q1/68

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)  
IPC 7 C12Q

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, Sequence Search, WPI Data, PAJ, MEDLINE, BIOSIS, EMBASE, CHEM ABS Data

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	PALUMBI S R AND SCOTT BAKER C: "Contrasting population structure from nuclear intron sequences and mtDNA of Humpback whales" MOLECULAR BIOLOGY AND EVOLUTION, vol. 11, no. 3, 1994, pages 426-435, XP002278815	1,5-7, 11,12
Y	the whole document	2-4, 8-10, 13-20, 22-24
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☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

### \* Special categories of cited documents:

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*Z\* document member of the same patent family

Date of the actual completion of the international search

25 April 2005

Date of mailing of the international search report

04/05/2005

Name and mailing address of the ISA

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## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	VOS P ET AL: "AFLP: A NEW TECHNIQUE FOR DNA FINGERPRINTING" NUCLEIC ACIDS RESEARCH, OXFORD UNIVERSITY PRESS, SURREY, GB, vol. 23, no. 21, 1995, pages 4407-4414, XP000939214 ISSN: 0305-1048 cited in the application the whole document -----	2-4, 8-10, 13-20, 22-24
A	WO 00/05418 A (GEN PROBE INC) 3 February 2000 (2000-02-03) the whole document -----	

## FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box II.2

Claims Nos.: 21,25 (complete); 24 (partial)

Present claims 21 and 25 relate to the use of a product defined by reference to a desirable characteristic or property, namely...

claim 21:...the "Use of a primer '...!' in the development of an assay '...!', and

claim 25:...the "Use of the method according to claim 18 for the selective enrichment of a sample for nuclear or organelle derived amplification products".

Claim 21 covers all possible uses of primers whereas the application provides support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT only for defined primer with very specific properties (i.e. "S3P primers"). Likewise, claim 25 does give no support at all by which means such an enrichment of specifically nuclear or organelle derived amplification products might be achieved. In the present case, these claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope (i.e. any primer for the development of any assay, or any means for some selective enrichment) is impossible. Independent of the above reasoning, the claims also lack clarity (Article 6 PCT). An attempt is made of defining that claim by a result to be achieved. Again, this lack of clarity in the present case is such as to render a meaningful search over the whole of the claimed scope impossible. Consequently, no search has been carried out for claims 21 and 25.

Present claim 24 relates to an extremely large number of possible products, i.e. "a kit comprising PCR primers...". Support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of such kits claimed. In the present case, the claim so lacks support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been limited and carried out for those parts of the claims which appear to be supported and disclosed, namely a kit comprising splice site-specific primers ("S3P primers").

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

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## Box No. I Nucleotide and/or amino acid sequence(s) (Continuation of item 1.b of the first sheet)

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, the international search was carried out on the basis of:

a. type of material

☒

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☒

in written format

☒

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed

☐

filed together with the international application in computer readable form

☐

furnished subsequently to this Authority for the purpose of search

2. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

3. Additional comments:

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## Box II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:  
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☒ Claims Nos.: 21,25 (complete); 24 (partial)  
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:  
see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:  
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

## Box III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

### Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

# INTERNATIONAL SEARCH REPORT

formation on patent family members

International Application No  
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Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 0005418	A	03-02-2000	
		US 6849400 B1	01-02-2005
		AT 269417 T	15-07-2004
		AU 767568 B2	13-11-2003
		AU 5128899 A	14-02-2000
		CA 2337106 A1	03-02-2000
		DE 69918132 D1	22-07-2004
		EP 1109932 A1	27-06-2001
		ES 2221750 T3	01-01-2005
		JP 2002521037 T	16-07-2002
		WO 0005418 A1	03-02-2000